

All the foregoing rejections are respectively traversed, and reconsideration of this application is requested. It is requested that this Amendment be entered to present the claims in better form for consideration on appeal.

OBJECTIONS:

The drawings were objected to because Figs. 1A, 1B, 3, 4, 5, and 6 were not labeled as "prior art".

THE REFERENCES:

The Cook patent has been previously described in Applicant's Amendment of February 5, 1990, as well as in colored drawings submitted in connection with the Amendment of July 10, 1990.

The Ersek patent has been previously described and discussed in Applicant's Amendment of July 10, 1990.

RESPONSE TO REJECTIONS AND OBJECTIONS:

In response to the objection to the drawings, Applicant shall have Figs. 1A, 1B, and 2-6 marked with a legend "prior art", as requested by the Examiner.

With respect to the rejections of Claims 1, 2, 4, and 5 as being anticipated by either Cook or Ersek, Applicant has amended independent claims 1 and 4 to recite that there is "only one" connector member being disposed between adjacent tubular members to flexibly connect adjacent tubular members. It was initially Applicant's intent that the term "a single" would be construed as "only one", because a standard dictionary definition of the word "single" is "consisting of only one in number". Webster's Ninth New Collegiate Dictionary, 1986.

It should be noted, however, that this limitation of "only one connector member" taken in context with the specification, should still cover a structure wherein two adjacent tubular members are flexibly connected by two connector members which could be disposed relatively close and adjacent to one another, for example radially spaced from each other between 0 and 45 degrees, whereby such two connector members would be equivalent to the single claimed connector member. It is believed that such a configuration of two very closely, radially spaced connector members would function as the single, or "only one", connector member now claimed and would be an equivalent structure. It is believed such a vascular graft would likely result in the performance of substantially the same function, in substantially the same manner, to obtain substantially the same result as that claimed, in that such a structure would function as the claimed graft in the manner illustrated in Fig. 8 of the present application and be able to bend and to flexibly pass through curved arteries.

With respect to addition of the foregoing limitation and independent Claims 1 and 4, such a structure is not disclosed, taught or suggested by the prior art. The structure of Ersek has at least four struts in the case of Figure 4, and, assuming arguendo that sections between openings 25 of Fig. 3 of Ersek constitute connector members, Fig. 3 illustrates five connector members, and perhaps six sections, or connector members. Cook illustrates six connectors 20. Neither of these references teach only one single flexible connector member between adjacent tubular members, nor a structure within the foregoing interpretation of the "only one" connector member limitation of Applicant, such as two connector members closely, radially spaced from one another so that they

function as "only one" connector member. Accordingly, Applicant submits that Claims 1, 2, 4, and 5, as amended are allowable over the art of record.

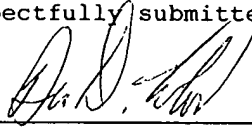
Further with regard to the Cook reference, Applicant still does not concur with the Examiner's interpretation of the Cook structure, in particular that "the three sections in Fig. 2 of Cook are approximately square shaped each containing six rectangular holes. These sections constitute the tubular sections as claimed." Although Applicant submits that the foregoing Amendment requires the withdrawal of the rejection based upon Cook, Applicant believes it is important that the record reflect that Applicant does not agree with such construction of Cook. The Examiner has improperly taken a single, elongate structure, and without a teaching therefor, artificially divided it into three sections, when in fact a single elongate structure is taught as being formed of an elongate base 2 of solid construction, and elongate sides of solid construction 14, 15, 16, 17, 18, and 19. As previously submitted, however, the Amendment hereof to independent Claims 1 and 4 requires the withdrawal of the rejection based upon Cook.

As to the provisional rejection of Claims 1-6, Applicant shall file the requested terminal disclaimer in compliance with 37 C.F.R. §1.321(b).

Applicant wishes to direct the Examiner's attention to the Supplemental Statement under Rule 1.97 being submitted concurrently herewith. That supplemental statement is being submitted out of an abundance of caution, in that the publication date of the enclosed article entitled "Self-Expanding Endovascular Graft: An Experimental Study in Dogs" bears a date of October 1988, and Applicant's application was filed on October 4, 1988.

In view of the foregoing submission, Applicant respectfully requests the withdrawal of the rejections of Claims 1, 2, 4, and 5 and allowance of all the claims in this Application.

Respectfully submitted,



Ben D. Tobor
Reg. No. 27,760
Attorney for Applicant,
RICHARD A. SCHATZ
TUDZIN & TOBOR
11757 Katy Freeway, Suite 1400
Houston, Texas 77079
(713) 870-1173

Date: 12/17/10

EGP-Amend/D4/BDT-Misc